

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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06 CV 6243 (NG) (JMA)

**GARY LABARBERA and FRANK FINKEL, as
Trustees of Local 282 International Brotherhood
of Teamsters Welfare, Pension, Annuity, Job
Training and Vacation Sick Leave Trust Funds,**

Plaintiffs,

- against -

ORDER

**ANDREW'S TRUCKING CORP. d/b/a
ANDREWS TRUCKING CORP.,**

Defendants.

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GERSHON, United States District Judge:

By complaint dated November 20, 2006, plaintiff commenced this action to recover damages pursuant to the Employee Retirement Income Security Act of 1974, as amended 29 U.S.C. §§ 1132 and 1145 ("ERISA"). On January 5, 2007, plaintiff moved for default judgment against defendant. On January 9, 2007, the Clerk of Court entered defendant's default pursuant to Federal Rule of Civil Procedure 55(a). On January 17, 2007, I granted judgment by default to plaintiffs and referred the matter to the Honorable Joan M. Azrack, United States Magistrate Judge, for report and recommendation. Judge Azrack issued a report and recommendation on August 6, 2007, which was mailed to defendant on August 6, 2007. No objections have been filed, and the time for filing objections has now expired.

As a remedy for defendant's alleged failure to pay benefits, plaintiff seeks unpaid contributions, interest on unpaid contributions, liquidated damages, attorney's fees and costs, and a permanent injunction. After a thorough analysis of the relevant facts and legal principles, Judge

Azrack concludes that defendant is liable under § 1145 of ERISA. She recommends granting plaintiff's motion for default judgment and awarding plaintiff \$698,899.00, reflecting \$693,307.49 in unpaid contributions, interest, and liquidated damages, plus \$5591.51 in attorneys' fees and costs. In addition, she recommends that plaintiffs' motion for a permanent injunction be denied.

Judge Azrack's recommendations are adopted in full. Plaintiff's motion for default judgment is granted pursuant to Federal Rule of Civil Procedure 55(b). Plaintiff is awarded \$693,307.49 in unpaid contributions, interest, and liquidated damages, plus \$5591.51 in attorneys' fees and costs. The Clerk of Court is directed to enter judgment accordingly.

SO ORDERED.

/s/
NINA GERSHON
United States District Judge

Dated: November 26, 2007
Brooklyn, New York